

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 785 – SB 1335

March 28, 2018

SUMMARY OF ORIGINAL BILL: Requires the Tennessee Wildlife Resources Agency (TWRA), in consultation with the Department of Environment and Conservation (TDEC), to study the risks associated with the use of non-motorized vessels at outdoor recreation areas located on waters in Tennessee. Requires the results of such study to be transmitted in writing to the Commissioner of the Department of Tourist Development (DTD) on or before July 1, 2018.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (016215): Deletes all language after the enacting clause.

Authorizes the TWRA to regulate commercial operations that lease or rent non-motorized vessels for non-commercial use by the public on the waters of Tennessee except for those commercial outfitters operating pursuant to a permit issued by the United States Forest Service on the waters in an adjacent to the Cherokee National Forest.

Creates a class C misdemeanor for operators of vessels on the waters of Tennessee failing to move over at least 100 feet or slow down to a no wake speed when an authorized emergency vessel making use of flashing lights approaches on the water. Limits the court costs assessed against a defendant to the maximum fine amount that may be imposed for a violation.

Repeals the exception authorizing renters of watercraft born after January 1, 1989, to operate such watercraft on the waters of Tennessee without completing a boater safety examination.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – Exceeds \$15,600/Wildlife Resources Fund

Increase State Expenditures – Exceeds \$15,600/Wildlife Resources Fund

Increase Local Revenue – \$2,000

Forgone Local Revenue – \$3,200

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Assumptions for the bill as amended:

Regulation of Non-Motorized Vessels

- The Tennessee Boating Safety Act of 1965, compiled in Title 69, Chapter 9, Part 2, gives enforcement and administrative duties to the TWRA.
- The proposed legislation adds a section to the Act giving the TWRA the authority to regulate commercial operations that lease or rent non-motorized vessels—e.g., canoes, kayaks, stand-up paddleboards, etc.—for non-commercial use by the public.
- Information from the TWRA indicates that there are commercial operators on at least 10 Tennessee waterways. Further, research by Fiscal Review Staff indicates at least five commercial operators in Nashville alone.
- It is assumed that there are at least two commercial operators on 30 Tennessee waterways that will be regulated by the TWRA under the proposed legislation.
- It is assumed that the Tennessee Fish and Wildlife Commission will establish an annual license fee for these commercial operators to offset the costs of regulation.
- It is reasonable to assume the Commission will establish a \$200 license fee, similar to the resident guide license fee and commercial fishing license.
- All fees collected by the TWRA for boating activities are deposited in the Wildlife Resources Fund.
- The proposed legislation will increase recurring state revenue to the Wildlife Resources Fund by at least \$12,000 (60 operators x \$200 license).
- The proposed legislation will increase recurring state expenditures from the Wildlife Resources Fund for the new regulation of commercial operators of non-motorized vessels. It is assumed that TWRA's expenditures will not exceed the revenue generated from license fees.
- The proposed legislation will increase recurring state expenditures from the Wildlife Resources Fund by at least \$12,000.

Move Over Law

- The proposed legislation creates a class C misdemeanor offense for failing to move over for an emergency watercraft using flashing lights.
- This offense is similar to the move over law found in Tenn. Code Ann. § 55-8-132.
- It is assumed that the proposed legislation will result in 20 convictions per year for failing to move over for an emergency watercraft.
- It is assumed that the average person convicted under the proposed legislation will not serve a period of imprisonment, and, therefore, will not significantly increase local incarceration costs.
- The proposed legislation also limits the court costs that may be assessed to the maximum allowable fine for the offense.
- Tennessee Code Annotated § 40-35-111 authorizes a punishment of 30 days imprisonment, a fine up to \$50.00, or both.
- The proposed legislation will forego recurring local revenue to courts by limiting court costs to \$50.00.
- A recent Tennessee Advisory Commission on Intergovernmental Relations (TACIR) report on court costs indicates that court costs in criminal cases, even relatively minor

offenses, range from \$112 to over \$300. It is assumed that the average court costs for a criminal matter are \$210.

- The proposed legislation will result in courts foregoing court cost fees of \$160 (\$210 court costs – \$50 maximum court cost under proposed legislation) per case. The proposed legislation will result in forgone local revenue of \$3,200 (\$160 per case x 20 cases).
- Because the maximum fine for a class C misdemeanor is \$50 and because the court costs for offenses under the proposed legislation are limited to \$50, it is assumed that the defendant in each case will pay the relevant court costs and fine.
- The proposed legislation will increase recurring local revenue by \$2,000 (20 cases x \$100 fines and costs).

Boating Safety Examination

- Tennessee Code Annotated § 69-9-226(a) requires every person born after January 1, 1989, to complete an approved boating safety examination to lawfully operate a boat on the waters of Tennessee.
- Tennessee Code Annotated § 69-9-226(b) establishes certain exceptions to the examination requirement, including an exception for renters of watercraft who have completed a safety orientation available at the rental location.
- The proposed legislation repeals this exception.
- The proposed legislation will increase the number of persons taking an approved boating safety examination.
- In 2016, 7,227 individuals completed a boating safety examination. It is assumed that the proposed legislation will increase examinations by five percent, or 361 examinations (7,227 x 0.05) per year.
- Tennessee Code Annotated § 69-9-226(c)(4) requires each person completing the examination to pay a \$10.00 fee. The proceeds from this fee are deposited into the Wildlife Resources Fund.
- The proposed legislation will increase recurring state revenue to the Wildlife Resources Fund by \$3,610 (361 exams x \$10.00).
- The TWRA will incur additional expenses for the additional examinations. However, it is assumed that TWRA's expenditures will not exceed \$10.00 per exam. The proposed legislation will increase recurring state expenditures from the Wildlife Resources Fund by \$3,610 (361 exams x \$10.00).

Total Impact to Wildlife Resources Fund

- The proposed legislation will increase recurring state revenue to the Wildlife Resources Fund by \$15,610 (\$12,000 + \$3,610).
- The proposed legislation will increase recurring state expenditures from the Wildlife Resources Fund by \$15,610 (\$12,000 + \$3,610).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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